

Department of Veterans Affairs

§ 39.31

other than a person whose sentence was commuted by the President;

(2) Who has been convicted of a State capital crime, as defined in 38 CFR 38.600(b), and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) Who has been found by an appropriate State official, as defined in 38 CFR 38.600(b), under procedures to be established by the State, to have committed a Federal or State capital crime, as defined in 38 CFR 38.600(b), but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(c) If a State which has received a grant under this part ceases to own the cemetery for which the grant was made, ceases to operate such cemetery as a veterans cemetery in accordance with paragraph (a) of this section, violates the prohibition in paragraph (b) of this section, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from the State the total of all grants made to the State under this part in connection with such cemetery.

(d) If, within 3 years after VA has certified to the Department of the Treasury an approved grant application, not all funds from the grant have been used by the State for the purpose for which the grant was made, the United States shall be entitled to recover any unused grant funds from the State.

(Authority: 38 U.S.C. 501, 2408, 2411)

§ 39.11 State to retain control of operations.

Neither the Secretary nor any employee of VA shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans cemetery that receives a grant under this program except as prescribed in this part.

(Authority: 38 U.S.C. 501, 2408)

Subpart B—Establishment, Expansion, and Improvement Projects

GRANT REQUIREMENTS AND PROCEDURES

§ 39.30 General requirements for a grant.

(a) For a State to obtain a grant for the establishment, expansion, or improvement of a State veterans cemetery:

(1) Its preapplication for the grant must be approved by VA under § 39.31(e);

(2) Its project must be ranked sufficiently high on the priority list in § 39.3 for the applicable fiscal year so that funds are available for the project;

(3) Its plans and specifications for the project must be approved by VA under § 39.32;

(4) The State must meet the application requirements in § 39.34; and

(5) Other requirements specified in §§ 39.6, 39.10, and 39.33 must be satisfied.

(b) VA may approve under § 39.35 any application under this subpart up to the amount of the grant requested once the requirements under paragraph (a) of this section have been satisfied, provided that sufficient funds are available. In determining whether sufficient funds are available, VA shall consider the project's priority ranking, the total amount of funds available for cemetery grant awards during the applicable fiscal year, and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

(Authority: 38 U.S.C. 501, 2408)

§ 39.31 Preapplication requirements.

(a) A State seeking a grant of more than \$100,000 for the establishment, expansion, or improvement of a State veterans cemetery must submit a preapplication to the Director, State Cemetery Grants Service, through http://www.cem.va.gov/cem/scg_grants.asp.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following: